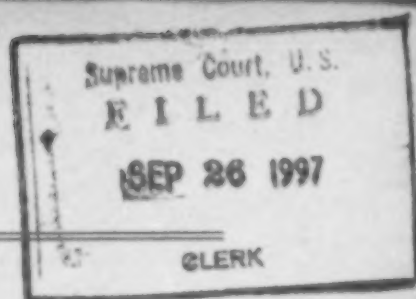


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No. 96-1037



In The
Supreme Court of the United States

October Term, 1996

— ♦ —
KIOWA TRIBE OF OKLAHOMA,

v.

Petitioner,

MANUFACTURING TECHNOLOGIES, INC.,

Respondent.

— ♦ —
**On Writ Of Certiorari
To The Oklahoma Court Of Appeals**
— ♦ —

**BRIEF OF FIRST NATIONAL BANK OF ALTUS AND
RAYMOND L. FRIEDLOB, RECEIVER FOR ALPINE
MUTUAL FUND TRUST AS AMICI CURIAE
IN SUPPORT OF RESPONDENT**
— ♦ —

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**INTERESTS OF AMICI CURIAE SUPPORTING
MANUFACTURING TECHNOLOGIES, INC.^{1,2}**

First National Bank in Altus (the "Altus Bank") is the plaintiff in *First National Bank in Altus v. Kiowa, Comanche and Apache Intertribal Land Use Committee*, 913 P.2d 299 (Okla. 1996), which is one of the cases relied upon by the Oklahoma Court of Appeals in rendering its decision in this case. In 1990 and 1991, the Altus Bank made loans to the Kiowa, Comanche and Apache Intertribal Land Use Committee ("KCA") to own and operate a dress making facility in Altus, Oklahoma. The dress making facility was located on leased land that was not Indian country. The promissory notes were executed at the Altus Bank, which was also not Indian country, and provided for payment at the Bank. The only relationship which this commercial transaction had with an Indian tribe was that KCA was the owner of the facility and the entity that borrowed the money.

After the Oklahoma Supreme Court's decision, KCA commenced an action in the United States District Court for the Western District of Oklahoma entitled *Kiowa, Comanche and Apache Intertribal Land Use Committee v. District Court of Jackson County*, No. CIV-96-1003-L. In that action, KCA sought an injunction against the district

¹ Pursuant to Rule 37.6, Rules of the Supreme Court, counsel for *amici curiae* states that no counsel for any party authored this brief in whole or in part, and that no person or entity other than the *amici* and their counsel made any monetary contribution to the preparation and submission of this brief.

² The parties have consented to the filing of this brief *amicus curiae*. Letters of consent have been filed with the Clerk of this Court.

court and the district judge prohibiting them from proceeding with the state court litigation. In seeking the injunction, KCA claimed sovereign immunity. The federal district court dismissed the action for lack of jurisdiction. The action is currently pending on a motion for rehearing.

Upon remand from the Oklahoma Supreme Court, the Altus Bank pursued the claim in state court and has obtained a judgment against KCA of approximately \$850,000. This Court's decision in the present case may affect the validity or collectibility of the Altus Bank's judgment.

Raymond L. Friedlob has been appointed by the United States District Court for the District of Colorado to act as receiver for Alpine Mutual Fund Trust ("Alpine"), a Massachusetts business trust consisting of two series mutual funds, including California Municipal Asset Trust ("CMAT"). Alpine was registered with the Securities and Exchange Commission (the "SEC") as an open-end investment company. In 1991, after an investigation by the SEC, the SEC requested that the federal court in Colorado appoint a receiver. As part of his duties, Friedlob is responsible for collecting and liquidating the assets of CMAT and protecting the interests of its shareholders. The shareholders in CMAT consist of approximately 750 individuals, many of whom are retired.

CMAT was engaged primarily in the business of making equipment leases, including leases with Indian tribes. In these transactions, CMAT would typically loan money for the acquisition of machinery and equipment

for a business to be operated by the tribe. The contracts were often negotiated and executed outside of Indian country. CMAT typically required the tribe to provide an opinion of its counsel that the agreement was valid, binding and enforceable in accordance with its terms.

Friedlob is currently in the process of attempting to collect in excess of \$1,500,000 which is owed by the Comanche Tribe of Oklahoma and the Kiowa Tribe of Oklahoma. In each case, Friedlob commenced litigation in state court in Oklahoma. Despite the opinions of counsel, both tribes have raised the defense of sovereign immunity. The trial courts have denied the defense of sovereign immunity and the actions are still pending.

In addition to asserting the defense of tribal immunity in the state court action, the Comanche Tribe commenced a separate action in federal court seeking to enjoin the district judge and the district court from proceeding with the state court litigation. The Comanche Tribe asserted that the action should not proceed because of its claim of sovereign immunity. That action was dismissed by the federal court for lack of jurisdiction and is now pending on appeal before the Tenth Circuit Court of Appeals as *Comanche Indian Tribe v. District Court of Grady County*, No. 97-6194.

Friedlob has a direct interest in the outcome of the present case because if the decision of the Oklahoma courts is reversed and the Kiowa Tribe is found to be protected by sovereign immunity, the efforts by Friedlob to liquidate the claims against the Comanche Tribe and the Kiowa Tribe will be affected.

ARGUMENT AND AUTHORITIES

I. TRIBAL SOVEREIGN IMMUNITY DOES NOT EXTEND TO ACTIVITIES CONDUCTED BY A TRIBE OUTSIDE OF ITS TERRITORIAL JURISDICTION.

Petitioner, Kiowa Indian Tribe (the "Kiowa Tribe") and their supporting *amici curiae* urge the Court to extend tribal sovereign immunity to activities which tribes conduct outside of their territorial jurisdiction. The Kiowa Tribe and the supporting tribes seek the protection of sovereign immunity for any activity which they may conduct anywhere in the United States. No government, whether state, federal or foreign, enjoys the protection which the tribes seek to obtain in the present action. Contrary to the position asserted by the Kiowa Tribe and the supporting tribes, the absolute sovereign immunity enjoyed by any government is limited to activity which that government conducts within its own territorial jurisdiction. When a government goes beyond its own jurisdictional boundaries and engages in activity within another jurisdiction, the sovereignty of the host jurisdiction is necessarily implicated. *Nevada v. Hall*, 440 U.S. 410, 416, 99 S.Ct. 1182, 59 L.Ed.2d 416, 422 (1979). The host government, in the exercise of its own sovereignty, has the right to determine whether to recognize the sovereign immunity as a matter of grace and comity.

To determine whether an Indian tribe is protected by sovereign immunity when it engages in commercial activities outside of its jurisdictional boundaries, the Court must consider the characteristics of tribal sovereign

immunity and the nature and history of sovereign immunity between nations. The nature of tribal sovereign immunity was described in *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 58, 98 S.Ct. 1670, 56 L.Ed.2d 106, 115 (1978):

Indian tribes have long been recognized as possessing the common-law immunity from suit traditionally enjoyed by sovereign powers.

The comparison of tribal sovereignty to foreign sovereignty was reiterated in *Blatchford v. Native Village of Noatak*, 501 U.S. 775, 782, 111 S.Ct. 2578, 115 L.Ed.2d 686, 696 (1991) where this Court stated:

Respondents argue that Indian tribes are more like States than foreign sovereigns. That is true in some respects: They are, for example, domestic. The relevant difference between States and foreign sovereigns, however, is not domesticity, but the role of each in the convention within which the surrender of immunity was for the former, but not for the latter, implicit. What makes the State's surrender of immunity from suit by sister States plausible is the mutuality of that concession. There is no such mutuality with either foreign sovereigns or Indian tribes.

Finally, in this Court's most recent pronouncement, Indian tribes were again compared with foreign powers with respect to their sovereign immunity. In *Idaho v. Coeur d'Alene Tribe of Idaho*, 521 U.S. ___, 117 S.Ct. 2028, 138 L.Ed.2d 438, 447 (1997) the Court reaffirmed its finding in *Blatchford*, *supra*, by stating:

Indian tribes, we therefore concluded, should be accorded the same status as foreign sovereigns, against whom States enjoy Eleventh Amendment immunity.

Indian tribes, like all other sovereigns, enjoy absolute immunity from suit for activities which occur within their territorial jurisdiction. The State of Oklahoma has not sought to subject the Kiowa Tribe to suit in Oklahoma courts for activities which occurred within Indian country subject to Kiowa jurisdiction. Rather, the present dispute involves commercial activity by the Kiowa Tribe within the State of Oklahoma and outside of Indian country. In such circumstances where one foreign sovereign has voluntarily engaged in activity within the jurisdiction of another sovereign, the determination of whether the foreign sovereign's claim of sovereign immunity will be recognized is one for the host sovereign to make based upon its own laws and grace and comity. This issue was first addressed by this Court in *The Schooner Exchange v. M'Faddon*, 7 Cranch 116, 136, 3 L.Ed. 287, 293 (1812) where Chief Justice Marshall stated:

The jurisdiction of courts is a branch of that which is possessed by the nation as an independent sovereign power.

The jurisdiction of the nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself. Any restriction upon it, deriving validity from an external source, would imply a diminution of its sovereignty to the extent of the restriction, and an investment of that sovereignty to the same extent in that power which could impose such restriction.

All exceptions, therefore, to the full and complete power of a nation within its own territories, must be traced up to the consent of the

nation itself. They can flow from no other legitimate source.

Since the decision in *The Schooner Exchange*, this Court has continued to recognize that, in the absence of a treaty or other agreement, the determination of whether the sovereign immunity of a foreign government will be recognized must be based upon the laws of the host jurisdiction as a matter of grace and comity. In *Verlinden B.V. v. Central Bank of Nigeria*, 461 U.S. 480, 486, 103 S.Ct. 1962, 76 L.Ed.2d 81, 87 (1983) (emphasis added) this rule was reiterated:

As *The Schooner Exchange* made clear, however, *foreign sovereign immunity is a matter of grace and comity on the part of the United States, and not a restriction imposed by the Constitution.*

Because Indian tribes possess the same common-law immunity from suit traditionally enjoyed by sovereign powers, this case is controlled by the Court's decision in *Nevada v. Hall*, 440 U.S. 410, 99 S.Ct. 1182, 59 L.Ed.2d 416 (1979). In that action, a Nevada employee was involved in a car wreck within the State of California. In response to the tort action filed in California state court, Nevada claimed sovereign immunity. California, which had waived sovereign immunity for itself, did not recognize Nevada's claim of immunity. In considering Nevada's claim of immunity from suit in California's courts for activity which occurred within California, this Court noted:

The doctrine of sovereign immunity is an amalgam of two quite different concepts, one applicable to suits in the sovereign's own courts

and the other to suits in the courts of another sovereign.

... This explanation adequately supports the conclusion that no sovereign may be sued in its own courts without its consent, but it affords no support for a claim of immunity in another sovereign's courts. Such a claim necessarily implicates the power and authority of a second sovereign; its source must be found either in an agreement, express or implied, between the two sovereigns, or in the voluntary decision of the second to respect the dignity of the first as a matter of comity.

... [I]f California and Nevada were independent and completely sovereign nations, Nevada's claim of immunity from suit in California's courts would be answered by reference to the law of California.

440 U.S. at 414, 416-417, 59 L.Ed.2d at 421-423. The Court then considered and rejected Nevada's claim that the Constitution imposed restrictions on California's right to choose whether or not to recognize Nevada's claim of immunity for activity occurring in California. The restrictions in the Constitution relied upon by Nevada did not abrogate the individual States' status as independent sovereigns:

Collectively they demonstrate that ours is not a union of 50 wholly independent sovereigns. *But these provisions do not imply that any one State's immunity from suit in the courts of another State is anything other than a matter of comity.*

440 U.S. at 425, 59 L.Ed.2d at 428 (emphasis added).

Because Indian tribes are treated as foreign nations for sovereign immunity purposes and because States have the right to decide as a matter of comity whether to recognize the claim of sovereign immunity, Oklahoma was entitled to make this decision in the exercise of its own sovereignty. Just as California had the right to decide whether to recognize Nevada's claim for immunity in *Nevada v. Hall*, *supra*, Oklahoma has the right to decide whether to recognize the claim of immunity by the Kiowa Tribe.

In the present action, the Kiowa Tribe has voluntarily engaged in commercial activity within the State of Oklahoma. If the claim of sovereign immunity is upheld, Respondent, Manufacturing Technologies, will have no remedy for the breach of contract. Such a result is contrary to the public policy of Oklahoma. Oklahoma requires all governments, state, county and municipal, to fulfill their contractual obligations or be liable in damages. Oklahoma is merely holding the Kiowa Tribe to the same standard. This public policy was expressly announced by the Oklahoma Supreme Court in *Aircraft Equipment Company v. Kiowa Tribe of Oklahoma*, 921 P.2d 359, 362 (Okla. 1996):

Behind this reasoning are important public policy considerations. Our contract law protects parties to contracts from arbitrariness that would otherwise control if parties were free to disregard any contract clauses that a disadvantaged party believed would be enforced to its detriment. Contracts are effective when parties know that the provisions of the contract will be enforced in our district courts. Such a policy protects all of our citizens including the tribes

who voluntarily choose to do business with their fellow Oklahoma citizens. If it were otherwise, the tribes would have difficulty finding anyone willing to risk his funds in unenforceable obligations. Such a rule would chill tribal commercial and entrepreneurial business.

The result that Indian tribes are not protected by sovereign immunity when they engage in activities outside of their territorial boundaries is merely a recognition of existing law. Not only is that holding compelled by *Nevada v. Hall, supra*, but the result is consistent with other Supreme Court precedent that Indian tribes are subject to state regulation for activities occurring outside of Indian country. This Court has consistently held that tribal activities occurring outside of a tribe's territorial jurisdiction are subject to state regulation. In *Mescalero Apache Tribe v. Jones*, 411 U.S. 145, 148-149, 93 S.Ct. 1267, 36 L.Ed.2d 114, 119 (1973), this Court held:

But tribal activities conducted outside the reservation present different considerations. 'State authority over Indians is yet more extensive over activities . . . not on any reservation.' *Organized Village of Kake, supra*, at 75, 7 L.Ed.2d 573. Absent express federal law to the contrary, Indians going beyond reservation boundaries have generally been held subject to non-discriminatory state law otherwise applicable to all citizens of the State.

See *Organized Village of Kake v. Egan*, 369 U.S. 60, 82 S.Ct. 562, 7 L.Ed.2d 573 (1962).

The Kiowa Tribe, the United States, and the other *amici curiae* urge the Court to reach a different result arguing that exclusive federal authority over Indian

tribes is vested with the United States. The Kiowa Tribe urges that such authority arises from the Indian commerce clause of the Constitution. That result was expressly rejected in *Mescalero Apache Tribe v. Jones, supra*, 411 U.S. at 147-148, 36 L.Ed.2d at 119 where this Court stated:

At the outset, we reject - as did the state court - the broad assertion that the Federal Government has exclusive jurisdiction over the Tribe for all purposes and that the State is therefore prohibited from enforcing its revenue laws against any tribal enterprise '[w]hether the enterprise is located on or off tribal land.' Generalizations on this subject have become particularly treacherous. . . . The upshot has been the repeated statements of this Court to the effect that even on reservations state laws may be applied unless such application would interfere with reservation self-government or would impair a right granted or reserved by federal law.

Finally, the United States suggests that this Court has previously held that tribes were protected by sovereign immunity in state court, even for activity occurring outside the reservation boundaries. In making this assertion, the United States relies upon *Puyallup Tribe, Inc. v. Washington Department of Game*, 433 U.S. 165, 97 S.Ct. 2616, 53 L.Ed.2d 667 (1977) and *Oklahoma Tax Commission v. Citizen Band Potawatomie Indian Tribe of Oklahoma*, 498 U.S. 505, 111 S.Ct. 905, 112 L.Ed.2d 1112 (1991). However, the issue of jurisdiction over activities occurring off the reservation was not at issue in either case. In the *Puyallup Tribe* case, the issue, as framed by the tribe was:

The Tribe, supported by the United States as *amicus curiae*, contends in this Court that the doctrine of sovereign immunity requires that the judgment be vacated, and that the state courts of Washington are without jurisdiction to regulate fishing activities *on its reservation*.

433 U.S. at 167, 53 L.Ed.2d at 671 (emphasis added). Likewise, in the *Oklahoma Tax Commission* case, the issue was also clearly framed to be limited to activities on the reservation:

Finally, Oklahoma asserts that even if sovereign immunity applies to direct actions against tribes arising from activities *on the reservation*, that immunity should not apply to the facts of this case.

498 U.S. at 511, 112 L.Ed.2d at 1121 (emphasis added). In fact, the exact opposite conclusion must be drawn from the *Oklahoma Tax Commission* case. As Justice Stevens noted in his concurring opinion, the Court impliedly held that tribes were not entitled to absolute immunity in state courts, when he stated: "My purpose in writing separately is to emphasize that the Court's holding in effect rejects the argument that this governmental entity - the Tribe - is completely immune from legal process." 498 U.S. at 515-516, 112 L.Ed.2d at 1124.

Because the determination of whether a sovereign government must recognize the claim of immunity by a foreign government conducting activity outside of that government's territorial jurisdiction has always been a matter of grace and comity for the host sovereign, Oklahoma is free to determine based upon its own laws and as a matter of comity, whether and to what extent it will

recognize the sovereign immunity of the Kiowa Tribe for the activities occurring outside of Indian country. To deny Oklahoma the right to make this decision is to impinge upon Oklahoma's sovereignty. *Nevada v. Hall, supra*, 440 U.S. at 416, 59 L.Ed.2d at 422. Oklahoma has the right and authority to make such a determination with respect to any foreign nation, and Indian tribes are accorded the same status as foreign sovereigns for sovereign immunity purposes. *Idaho v. Coeur d'Alene Tribe of Idaho, supra*, 138 L.Ed.2d at 447. Oklahoma's decision not to recognize tribal sovereign immunity in this case must be upheld.

II. PRACTICAL CONSIDERATIONS DICTATE THAT INDIAN TRIBES BE TREATED IN THE SAME MANNER AS ALL OTHER GOVERNMENTS WITH RESPECT TO SOVEREIGN IMMUNITY.

If the Kiowa Tribe prevails in this action, the Kiowa Tribe and other Indian tribes will gain a status unique among all governmental entities, whether state, municipal, or foreign. If Oklahoma is denied the right to decide for itself whether to recognize the claim of sovereign immunity for activity occurring outside of Indian country but within the State of Oklahoma, Indian tribes will be free to unilaterally decide whether and how to fulfill contractual obligations. No other government enjoys such status. Indian tribes would be free to engage in commerce throughout the United States knowing that they will never be required to fulfill their contractual obligations. The other party to the contract will have no remedy in any court, state or federal. It is precisely this type of abuse that the Oklahoma Supreme Court was seeking to avoid.

Several of the *amici curiae* have suggested that it is unnecessary to provide non-Indian parties to a contract with a forum for resolution of disputes and enforcement of obligations because such parties are sophisticated businessmen capable of protecting their interests by other means. Even if true with respect to Manufacturing Technologies, the Altus Bank, and others, such a statement is a gross generalization which would certainly not be true with respect to many business situations. Many businesses have never had dealings with Indian tribes in their governmental capacity and would not be aware of the special rules applicable to Indian tribes.

A. Waiver of Sovereign Immunity is Not a Viable Solution.

Several of the *amici curiae* have suggested that a simple waiver of sovereign immunity would be adequate to protect the non-Indian. Waiver of sovereign immunity does not provide a viable solution to this issue. First, it is not entirely clear if or how Indian tribes may waive sovereign immunity. In *United States v. United States Fidelity & Guaranty Company*, 309 U.S. 506, 513, 60 S.Ct. 653, 84 L.Ed. 894, 899 (1940) the Court stated:

It is a corollary to immunity from suit on the part of the United States and the Indian Nations in tutelage that this immunity cannot be waived by officials.

Assuming that an official can waive sovereign immunity for a tribe if properly authorized, a contracting party must determine whether tribal law authorizes a waiver, what steps are required to grant a waiver, and what

officials are authorized to act. A contracting party would have to review all tribal governmental documents to ensure that a waiver was validly obtained.

The second hurdle for a waiver of sovereign immunity is the waiver language itself. In *Santa Clara Pueblo v. Martinez*, *supra*, 436 U.S. at 58, 56 L.Ed.2d at 115, the Court stated:

It is settled that a waiver of sovereign immunity "cannot be implied but must be unequivocally expressed."

Because waivers are strictly construed in favor of Indian tribes, the language must be carefully drafted to cover not only the transaction in question but also any remedies which may be available. If in hindsight, a court determines that the waiver language is not broad enough to cover a particular situation, the injured party will be left without a remedy. Given these difficulties in obtaining a valid waiver of sovereign immunity that was properly worded to cover the transaction, only the largest and most important transactions would warrant the legal expense required. Obtaining a waiver of sovereign immunity is not a viable solution when transacting business with an Indian tribe.

B. Failure to Extend Sovereign Immunity Beyond Indian Country Will Not Impair Tribal Activities or Frustrate Congressional Policies.

The Kiowa Tribe suggests that failure to extend sovereign immunity to activities which they conduct off the reservation will impair their ability to conduct tribal government and will hinder Congress' policy of promoting

tribal self-sufficiency. The Kiowa Tribe asserts that because it has a limited land base, it will be difficult for it to engage in commercial activity.

The Kiowa Tribe as well as other Indian tribes have an opportunity to completely protect themselves from unauthorized suits, whether in state or federal court. Such tribes need only restrict their activities to lands within their jurisdiction. It is undisputed that Indian tribes are protected by sovereign immunity for activities occurring within their jurisdiction.

Restricting activity to a tribe's territorial jurisdiction in order to maintain the benefits of sovereign immunity is consistent with the rights and powers of Indian tribes generally. Like all governments, a tribe is limited by its territorial jurisdiction. As this Court noted in *Hilton v. Guyot*, 159 U.S. 113, 163, 16 S.Ct. 139, 40 L.Ed. 95, 108 (1895):

No law has any effect, of its own force, beyond the limits of the sovereignty from which its authority is derived.

The jurisdiction of an Indian tribe is similar to that of any other government. An Indian tribe only has jurisdiction over its members and its territory. *United States v. Mazurie*, 419 U.S. 544, 557, 95 S.Ct. 710, 42 L.Ed.2d 706, 716 (1975); *Iowa Mutual Insurance Company v. LaPlante*, 480 U.S. 9, 14, 107 S.Ct. 971, 94 L.Ed.2d 10, 18 (1987).

This Court has consistently recognized this territorial limitation on the power of an Indian tribe. In *Merrion v. Jicarilla Apache Tribe*, 445 U.S. 130, 141-42, 102 S.Ct. 894, 904, 71 L.Ed.2d 21, 32 (1982) (emphasis added), the Court described this territorial limitation as follows:

[A] tribe has the power to tax nonmembers only to the extent the nonmember enjoys the privilege of trade or other activity on the reservation to which the tribe can attach a tax. This limitation on tribal taxing authority exists not because the tribe has the power to exclude nonmembers, but because the limited authority that a tribe may exercise over nonmembers does not arise until the nonmember enters the tribal jurisdiction. We do not question that there is a significant territorial component to tribal power: a tribe has no authority over a nonmember until the nonmember enters tribal lands or conducts business with the tribe.

The territorial limitation is an inherent aspect of tribal government. The fact that a tribe's land base may be limited does not justify providing special treatment. The land base in Oklahoma is small in comparison to the State of Texas, but Oklahoma does not receive special treatment.

Finally, if a tribe is concerned that its activities outside of Indian country will subject it to jurisdiction, the tribe has an available remedy. It may merely negotiate with the other party to the contract an appropriate choice of law and choice of forum clause designating tribal law and tribal forums as controlling. Choice of law and choice of forum clauses are enforced in Oklahoma. See *Telex Corporation v. Hamilton*, 576 P.2d 767 (Okla. 1978); *Williams v. Shearson Lehman Brothers, Inc.*, 917 P.2d 998 (Okla. App. 1996). This approach has the special advantage of ensuring that the other party to the contract is aware of the special laws applicable to Indian tribes. When faced with the request for a choice of law or choice of forum clause,

a party must inquire as to why such clauses are desired and what effect they will have on the contract.

Recognizing and enforcing the territorial restriction on the powers of Indian tribes will not impair tribal activities. Tribes will be free to engage in whatever activities they desire under whatever rules they may enact within their own territorial jurisdiction. However, when tribes choose to engage in activities outside of their territorial jurisdiction, the State where the activity occurs must be allowed to determine whether it will recognize a claim of sovereign immunity or provide its citizens with a forum and remedy for breach of contract.

CONCLUSION

Indian tribes possess the common-law immunity from suit traditionally enjoyed by sovereign powers. With respect to a tribe's own territory, that immunity is absolute. However, when a tribe, like any other sovereign, engages in activity beyond its territorial jurisdiction, sovereign immunity is not absolute. Rather, the sovereignty of the State in which the activity occurs is affected. The State, in the exercise of its sovereignty, has the right to choose whether it will recognize the claim of sovereign immunity as a matter of comity.

In the present case, Oklahoma has chosen to treat the Kiowa Tribe in the same manner as any other government and to provide a remedy and forum to its citizens for breaches of contract within the State. *Nevada v. Hall, supra*, controls this litigation and mandates that Oklahoma has the right to make that determination. This

Court should affirm the decision of the Oklahoma Court of Appeals.

Respectfully submitted,

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